

For information
on 13 February 2012

**Legislative Council
Panel on Transport and Panel on Financial Affairs**

**Joint Subcommittee on Issues Relating to
Insurance Coverage for the Transport Sector**

**Self-Insurance Arrangement adopted by
The Kowloon Motor Bus Company (1933) Limited**

PURPOSE

At the meeting of the Joint Subcommittee held on 13 January 2012, Members requested information on the self-insurance arrangement adopted by The Kowloon Motor Bus Company (1933) Limited (“KMB”). This paper provides the requested information.

BACKGROUND

2. Section 4(1) of the Motor Vehicles Insurance (Third Party Risks) Ordinance (Cap. 272) (“the Ordinance”) stipulates that it shall not be lawful for any person to use a motor vehicle on a road unless there is in force in relation to the user of the vehicle by that person, a policy of insurance in respect of third party risks. Section 4(4)(c) of the Ordinance, however, allows a person to be exempted from the above requirement if he has made a deposit with the Director of Accounting Services to the value of \$2,000,000 at any time when such motor vehicle is being driven by the owner, or by his employee. The details of the legislative provision are at Annex.

SELF-INSURANCE ARRANGEMENT ADOPTED BY KMB

3. Therefore, those who can fulfil the requirement set out in section 4(4)(c) of the Ordinance may on the basis of their financial security opt to shoulder third party liability arising from their own activities. KMB has been adopting this alternative insurance arrangement by -

- (a) depositing \$2,000,000 with the Director of Accounting Services in accordance with section 4(4)(c) of the Ordinance;
- (b) appropriating a Contingency Fund of a size sufficient to meet potential liability up to a limit (“excess limit”); and
- (c) taking out an external insurance policy covering potential liability beyond the excess limit.

4. KMB has been adopting this arrangement on a voluntary basis for providing an adequate measure of protection to the public in the discharge of its third party liability. The size of the Contingency Fund is kept under review by an independent actuary appointed by KMB on an annual basis.

ADVICE SOUGHT

5. Members are invited to note the above information.

**Transport and Housing Bureau
Transport Department
February 2012**

Annex

Chapter: 272	Title:	MOTOR VEHICLES INSURANCE (THIRD PARTY RISKS) ORDINANCE	Gazette L.N. 200 of Number: 2007
Section: 4	Heading:	Obligation on users of motor vehicles to be insured against third party risks	Version 02/12/2007 Date:

(1) Subject to the provisions of this Ordinance it shall not be lawful for any person to use, or to cause or permit any other person to use, a motor vehicle on a road unless there is in force in relation to the user of the vehicle by that person or that other person, as the case may be, such a policy of insurance or such a security in respect of third party risks as complies with the requirements of this Ordinance.

(2) (a) If a person acts in contravention of this section, he shall be liable to a fine of \$10000 and to imprisonment for 12 months, and a person convicted of an offence under this section shall (unless the court for special reasons thinks fit to order otherwise) be disqualified from holding or obtaining a licence to drive a motor vehicle for such period as the court may determine being not less than 12 months nor more than 3 years from the date of conviction. (Replaced 22 of 1976 s. 2)

(b) A person disqualified by virtue of a conviction under this section or of an order made thereunder for holding or obtaining a licence shall, for the purposes of the Road Traffic Ordinance (Cap 374), be deemed to be disqualified by virtue of a conviction under the provisions of that Ordinance.

(3) Notwithstanding any enactment prescribing a time within which proceedings may be brought before a court of summary jurisdiction, proceedings for an offence under this section may be brought-

(a) within a period of 6 months from the date of the commission of the alleged offence; or

(b) within a period which exceeds neither 3 months from the date on which it came to the knowledge of the prosecutor that the offence had been committed nor 1 year from the date of the commission of the offence,

whichever period is the longer.

(4) This section shall not apply to-

(a) any motor vehicle which is the property of Her Majesty or the Government upon any occasion upon which such vehicle is being used by a person authorized

by Her Majesty or the Government to use the same on such occasion; or

(b) any motor vehicle at any time when it is being driven for police purposes by, or under the direction of, any police officer; or

(ba) any motor vehicle at any time when it is being driven by a public officer-

(i) in connection with a driving or instructor's test conducted by him under the Road Traffic Ordinance (Cap 374);

(ii) for the purpose of carrying out any examination, inspection, weighing or testing of that vehicle required under that Ordinance; or (Added 61 of 1973 s. 2)

(iii) in the course of its removal from a road tunnel to which the Road Tunnels (Government) Ordinance (Cap 368) applies; or (Replaced 49 of 1981 s. 2)

(iv) in the course of its removal from a restricted road, or any place on a restricted road or a parking place or car park, in an estate managed by the Housing Authority under the Housing Ordinance (Cap 283); or (Added 49 of 1981 s. 2)

(bb) any motor vehicle at any time when it is being driven within the Cross-Harbour tunnel area by an authorized officer as defined in the Road Tunnels (Government) Ordinance (Cap 368) in the course of its removal from the tunnel; or (Added 61 of 1973 s. 2. Amended L.N. 198 of 1999)

(bc) any motor vehicle at any time when it is being driven by an employee of the MTR Corporation Limited in the course of its removal from any railway premises, station approach road or entrance under the Mass Transit Railway By-laws (Cap 556 sub. leg. B); or (Added 49 of 1981 s. 2. Amended 13 of 2000 s. 65; 11 of 2007 s. 36)

(c) any motor vehicle owned by a person, other than a person specified in an order made by the Governor in Council for the purposes of this paragraph, who has made a deposit with the Director of Accounting Services to the value of \$2000000 and has not required such deposit to be returned to him, at any time when such motor vehicle is being driven by the owner or by a servant of the owner in the course of his employment, or is otherwise subject to the control of the owner. (Amended 21 of 1968 s. 3; L.N. 16 of 1977; 46 of 1985 s. 2)

[cf. 1930 c. 43 s. 35 U.K.]